UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/828,257	04/06/2001	Louis D. Giacalone JR.	17996-15 US	4988

21839 7590 06/03/2005

BURNS DOANE SWECKER & MATHIS L L P
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

EXAMINER	
PATEL, HARESH N	

ART UNIT	PAPER NUMBER
2154	

DATE MAILED: 06/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/828,257	GIACALONE, LOUIS D.	
	Examiner	Art Unit	
	Haresh Patel	2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 January 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-12* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-12* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-12 are presented for examination.

Response to Arguments

2. Applicant's arguments filed 1/3/2005 have been fully considered but they are not persuasive. Therefore, rejection of claims 1-12 is maintained.

Applicant argues, (1) "the cited reference, Stone et. al., 6,446,045 (Hereinafter Stone) does not disclose, teach or suggest the amended limitations of claim 1, a schedule algorithm responsive to input preferences relating to play scheduling parameters selected from the group consisting of frequency, interval, time of play, trigger events, and category filtering, and operative to generate scheduling data for transmission to a plurality of output servers and/or advertising content display devices for controlling the scheduling of the play of certain advertisement content". The examiner respectfully disagrees. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies, "scheduling data for transmission to a plurality of output servers and/or advertising content display devices for controlling the scheduling of the play of certain advertisement content", are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). What is claimed is "a system for scheduling the distribution and play of advertising content on remote devices utilizing a network, a scheduling algorithm executed on the server for generating scheduling data utilizing the input preferences, the scheduling algorithm being based on

predetermined methods of processing the input preferences; and a network for distributing the advertising content and the scheduling data to a plurality of output devices". Since, the amended limitations are addressed by the new ground(s) of rejection, please refer to the below rejections of this office action. Therefore, the rejection is maintained.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

3. Amended claims 1-8 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 5-8 recites the limitations, "the advertising content". There is insufficient antecedent basis for this limitation in the claim. Since, multiple advertising contents (play of advertising content, storing advertisement content), exist in the claim, it is not clear which advertising content is referred by theses limitations.

Claim 2 recites the limitations, "the advertising content", "said advertising content", "said display devices". There is insufficient antecedent basis for this limitation in the claim. Since, multiple advertising contents (play of advertising content, storing advertisement content), exist in the claim, it is not clear which advertising content is referred by theses limitations.

Claim 3 recites the limitations, "said remote communicative devices", "the advertising content", "the associated display devices", "said display devices". There is insufficient antecedent basis for this limitation in the claim. Since, multiple advertising contents (play of

advertising content, storing advertisement content), exist in the claim, it is not clear which advertising content is referred by theses limitations.

Claim 4 recites the limitations, "the associated display devices". There is insufficient antecedent basis for this limitation in the claim.

Claim 10 recites the limitations, "the output displays". There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1, 2, 4-6, 9-11, are rejected under 35 U.S.C. 103(a) as being unpatentable over Stone et al. 6,446,045 (Hereinafter Stone) in view of Debey, U.S. Publication, 2004/0064497 (Hereinafter Debey).

6. As per claim 1, Stone teaches a system (e.g., col., 3, line 13 – col., 4, line 55) for scheduling the distribution of content utilizing a network, comprising (e.g., scheduling of advertising/publishing content over the network, col., 3, line 13 – col., 4, line 55):

a database for storing advertising content (e.g., database, figure 2A, advertising content over the network, col., 3, line 13 – col., 4, line 55);

a server coupled to the database (e.g., network, database, server, col., 3, line 13 – col., 4, line 55), the server being capable of receiving input preferences (e.g., col., 3, line 13 – col., 4,

line 55) relating to parameters selected from the group consisting of: frequency, interval, time of play, trigger events, and category filtering (e.g., advertisement related events, col., 3, line 13 – col., 4, line 55),

a scheduling algorithm executed on the server for generating scheduling data utilizing the input preferences (e.g., usage of scheduling algorithms, col., 3, line 13 – col., 4, line 55), the scheduling algorithm being based on predetermined methods of processing the input preferences (e.g., scheduling algorithms for handling advertisement/publishing related to a user, col., 3, line 13 – col., 4, line 55); and

a network for distributing the advertising content (e.g., advertising content over the network, col., 3, line 13 – col., 4, line 55); and the scheduling data to a plurality of output devices (e.g., distribution of real time dynamic content related to the scheduled advertisement/publishing information to the output devices, col., 3, line 13 – col., 4, line 55).

However, Stone does not specifically mention about play of content on remote devices and play scheduling parameters.

Debey discloses the well-known concept of play of content on remote devices (e.g., paragraph 44) and usage of play scheduling parameters (e.g., paragraphs 46, 65).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Stone with the teachings of Debey in order to facilitate of play of content on remote devices and play scheduling parameters because the play would support presenting content information at the remote devices. The presented content information would be available for a user to view. The play scheduling parameters would help enhance presenting information to the user at specific time.

7. As per claim 2, Stone and Debey disclose the claimed limitations as rejected above. Stone also teaches the following:

at least one remote communicative device coupled to said network for receiving and responding to said scheduling data to communicate said advertising content (e.g., col., 5, line 1 – col., 6, line 65), to at least one of said display devices (e.g., col., 3, line 13 – col., 4, line 55), said remote communicative device (e.g., col., 5, line 1 – col., 6, line 65) being capable of storing the advertisement content (e.g., col., 3, line 13 – col., 4, line 55) and scheduling data so that it can continue to function in the event of a loss of coupling with said network (e.g., col., 5, line 1 – col., 6, line 65).

8. As per claim 4, Stone and Debey disclose the claimed limitations as rejected above. Stone also teaches the following:

each remote server provides security between the associated display devices and the network (e.g., col., 5, line 1 – col., 6, line 65).

9. As per claim 5, Stone and Debey disclose the claimed limitations as rejected above. Stone also teaches the following:

a user interface coupled to the network for allowing a user to input and/or modify at least one of the scheduling data and the advertising (e.g., col., 5, line 1 – col., 6, line 65) content (e.g., figures 2c and 2d).

10. As per claim 6, Stone and Debey disclose the claimed limitations as rejected above. Stone also teaches the following:

the scheduling data is stored in the database with the advertising (e.g., col., 5, line 1 – col., 6, line 65) content (e.g., figure 2b).

11. As per claim 9, Stone and Debey disclose the claimed limitations as rejected above. Stone also teaches the following:

a user interface coupled to the network for updating the scheduling data (e.g., figures 2c and 2d).

12. As per claim 10, Stone and Debey disclose the claimed limitations as rejected above. Stone also teaches the following:

advertising (e.g., col., 5, line 1 – col., 6, line 65) content from a variety of channels is distributed simultaneously to various ones of the output displays (e.g., col., 5, line 1 – col., 6, line 65).

13. As per claim 11, Stone and Debey disclose the claimed limitations as rejected above. Stone also teaches the following:

the database can receive and store and can be queried (e.g., col., 5, line 1 – col., 6, line 65) for information associated with at least one of the group consisting of billing, statistical analysis, merchandise, and performance monitoring (e.g., col., 5, line 1 – col., 6, line 65).

14. Claim 3 is rejected under 35 U.S.C. 102(e) as being anticipated by Stone and Debey in view of Gehani et al., 5,802,062 (Hereinafter Gehani).

15. As per claim 3, Stone and Debey disclose the claimed limitations rejected under claims 1 and 2. However Stone and Debey does not specifically mention about remote communicative devices include at least one remote server.

Gehani discloses the well-known concept of remote communicative devices including at least one remote server (e.g., usage of intermediate server, figure 3d).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Stone and Debey with the teachings of Gehani in order to facilitate usage of remote communicative devices including at least one remote server because the remote server being used as an intermediate server would support communicating content information at the remote devices. The communicated content information would be available for a user for viewing from intermediate server.

16. Claims 7, 8, 12, are rejected under 35 U.S.C. 103(a) as being unpatentable over Stones and Debey in view of "Official Notice".

17. As per claims 7, 8 and 12, Stone teaches the claimed limitations as rejected under claims 1 and 5.

However, Stones and Debey do not specifically mention about the claimed subject matter of claims 7, 8 and 12. "Official Notice" is taken that both the concept and advantages of providing a tag associated with the scheduling data is stored with the content, separate scheduling data database from content database, a gaming device coupled to the server and capable of communicating content associated with gaming is well known and expected in the art.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a tag associated with the scheduling data is stored with the content, separate scheduling data database from content database, a gaming device coupled to the server and capable of communicating content associated with gaming with the teachings of Stones in order to facilitate usage of databases that contain separate data for content and schedule data because the tag associated with the scheduling data stored with the content will help provide indication of when the content is scheduled to be used for a target device for execution. A gaming device connected to the server on the network will provide gaming related information that can be provided to the devices on the network for user presentation.

Conclusion

18. The prior art made of record (forms PTO-892 and applicant provided IDS cited arts) and not relied upon is considered pertinent to applicant's disclosure.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Haresh Patel whose telephone number is (571) 272-3973. The examiner can normally be reached on Monday, Tuesday, Thursday and Friday from 10:00 am to 8:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Haresh Patel

May 29, 2005

JOHN FOLLANSBEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100